

2009 DRAFTING REQUEST

Bill

Received: **01/09/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Steinmetz**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Correctional System - prisons**
Correctional System - misc

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Steinmetz, BB0382 -

Topic:

Earned Release Program

Instructions:

Expand ERP to include non AODA inmates. Do NOT change parole commission name, make procedural changes, or other changes included on DOC concept paper - simply amend ERP to accommodate non AODA inmates

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 01/10/2009	kfollett 01/11/2009		_____			
/P1	phurley 01/14/2009	kfollett 01/15/2009	rschluet 01/12/2009	_____	sbasford 01/12/2009		
/P2	phurley 01/20/2009	kfollett 01/20/2009	mduchek 01/15/2009	_____	lparisi 01/15/2009		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	phurley 01/21/2009	chanaman 01/21/2009	mduchek 01/20/2009	_____	lparisi 01/20/2009		
/P4	phurley 01/30/2009	csicilia 01/30/2009	rschluet 01/21/2009	_____	mbarman 01/22/2009		
/P5	phurley 01/30/2009	kfollett 01/30/2009	jfrantze 01/30/2009	_____	cduerst 01/30/2009		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/09/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Steinmetz**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Correctional System - prisons**
Correctional System - misc

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Steinmetz, BB0382 -

Topic:

Earned Release Program

Instructions:

Expand ERP to include non AODA inmates. Do NOT change parole commission name, make procedural changes, or other changes included on DOC concept paper - simply amend ERP to accommodate non AODA inmates

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 01/10/2009	kfollett 01/11/2009		_____			
/P1	phurley 01/14/2009	kfollett 01/15/2009	rschluet 01/12/2009	_____	sbasford 01/12/2009		
/P2	phurley 01/20/2009	kfollett 01/20/2009	mduchek 01/15/2009	_____	lparisi 01/15/2009		

1 P5 k/f
1/30
Jo
1/30
Jo/Self
1/30

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	phurley 01/21/2009	chanaman 01/21/2009	mduchek 01/20/2009	_____	lparisi 01/20/2009		
/P4			rschluet 01/21/2009	_____	mbarman 01/22/2009		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/09/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Steinmetz**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Correctional System - prisons
Correctional System - misc**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Steinmetz, BB0382 -

Topic:

Earned Release Program

Instructions:

Expand ERP to include non AODA inmates. Do NOT change parole commission name, make procedural changes, or other changes included on DOC concept paper - simply amend ERP to accommodate non AODA inmates

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 01/10/2009	kfollett 01/11/2009		_____			
/P1	phurley 01/14/2009	kfollett 01/15/2009	rschluet	_____	sbasford 01/12/2009		
/P2	phurley 01/20/2009	kfollett 01/20/2009	mduchek	_____	lparisi 01/15/2009		

Handwritten initials/signature

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P3

mduchek _____
01/20/2009 _____

lparisi _____
01/20/2009 _____

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/09/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Steinmetz**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Correctional System - prisons
Correctional System - misc**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Steinmetz, BB0382 -

Topic:

Earned Release Program

Instructions:

Expand ERP to include non AODA inmates. Do NOT change parole commission name, make procedural changes, or other changes included on DOC concept paper - simply amend ERP to accommodate non AODA inmates

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 01/10/2009	kfollett 01/11/2009		_____			
/P1	phurley 01/14/2009	kfollett 01/15/2009	rschluet 01/12/2009	_____	sbasford 01/12/2009		
/P2		<i>1/13/09 k/f</i> <i>1/20</i>	mduchek 01/15/2009	_____	lparisi 01/15/2009		

MD
MDRS
1/20

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/09/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Steinmetz**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Correctional System - prisons**
Correctional System - misc

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Steinmetz, BB0382 -

Topic:

Earned Release Program

Instructions:

Expand ERP to include non AODA inmates. Do NOT change parole commission name, make procedural changes, or other changes included on DOC concept paper - simply amend ERP to accommodate non AODA inmates

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 01/10/2009	kfollett 01/11/2009					
/P1			rschluet 01/12/2009		sbasford 01/12/2009		

FE Sent For:

2009 DRAFTING REQUEST

Bill

Received: 01/09/2009

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Steinmetz

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons
Correctional System - misc

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Steinmetz -

Topic:

Earned Release Program

Instructions:

Expand ERP to include non AODA inmates. Do NOT change parole commission name, make procedural changes, or other changes included on DOC concept paper - simply amend ERP to accommodate non AODA inmates

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley	1/11/09 1/11/09		_____	_____		

FE Sent For:

<END>

called: ERPE Release Commission .002 2/keep this as

**EXPAND PARTICIPANT ELIGIBILITY FOR THE EARNED RELEASE PROGRAM,
RENAME PAROLE COMMISSION TO THE EARNED RELEASE REVIEW COMMISSION
and EXPAND THE AUTHORITY OF THE COMMISSION**

DRAFT CONCEPT PAPER

a sep. draft. Goal: to change name and to

Concept: Provide sentencing option for the courts (prospective) by expanding the eligibility criteria for involvement in the Earned Release Program to include non-assaultive and non-violent offenders who do not have an AODA treatment need¹. Create a means to identify offenders currently determined by the court as eligible for ERP (retroactive) and involve these offenders in prioritized risk-reduction treatment that may involve less intensive AODA education along with other treatment interventions that are directly related to the offender's risk to commit a new crime. Create a releasing authority mechanism that allows for a structured risk assessment and review process that is predicated on a determination that the person does not pose an unreasonable risk to the public.

Program Eligibility Criteria:

- o Person determined by the sentencing court to be eligible to participate in ERP (see proposed changes in eligibility criteria)
- o Person convicted of non-violent crimes (instant offense and historical)

don't change name - only

Program Suitability Criteria:

- o Person assessed, using evidence-based assessment instrument(s), who has: a) an alcohol or drug treatment need that requires an intensive level of treatment; b) an alcohol or drug treatment need that does not require an intensive level of treatment; rather AODA education and/or outpatient services, and whose alcohol or drug use is not the key factor to his/her criminal behavior; or c) other treatment needs that are directly related to his/her criminal behavior (Criminogenic Needs Principle).
- o Person is assessed with a validated risk instrument to determine the level of risk they pose to public safety.
- o Person is assessed, using evidence-based assessment instrument(s), to ascertain their level of motivation to fully engage in change and involve themselves in determined treatment programming (Responsivity Principle).
- o Person classified by the BOCM risk classification process as appropriate for Medium, Minimum, or Minimum-Community custody.

↑ program eligibility under 302.05

Definitions of Evidence-based Principles

Criminogenic Needs Principle: Offenders have a variety of needs, some of which are directly linked to criminal behavior. These criminogenic needs are dynamic risk factors that, when addressed or changed, affect the offender's risk for recidivism. Examples of criminogenic needs are: criminal personality; antisocial attitudes, values, and beliefs; low self control; criminal peers; substance abuse; and dysfunctional family. Based on an assessment of the offender, these criminogenic needs can be prioritized so that services

¹ See Analysis of Property, Drug Trafficking, Drug/Alcohol and Other Non-Violent Incarcerated Offenders – Analysis of First Time Offenders - and Summary Analysis of Non-Violent Offenders Who Have Minimal-to-No AODA Treatment Need

140 New

are focused on the greatest criminogenic needs. (Andrews & Bonta, 1998; Lipton, et al, 2000; Elliott, 2001; Harland, 1996)

Responsivity Principle: Responsivity requires taking into account individual characteristics when matching offenders to services. These characteristics include, but are not limited to: culture, gender, motivational stages, developmental stages, and learning styles. These factors influence an offender's readiness and responsiveness to engage in treatment. (Guerra, 1995; Miller & Rollnick, 1991; Gordon, 1970; Williams, et al, 1995)

Risk-Reduction Program Focus:

The primary focus of the program will be to provide evidence-based treatment and expand educational and vocational services that address primary criminogenic needs and risk factors, as determined by validated risk and needs assessment instruments. Consistent with the "What Works" literature in correctional programming, the program may address, based on assessed individual needs:

- antisocial attitudes, values and beliefs (criminal thinking);
- replacement of pro-criminal associations with pro-social natural and system support networks;
- poor social and problem-solving skills;
- intensive AODA treatment or AODA education, if indicated, or other treatment needs that are directly related to his/her criminal behavior;
- parenting skills and family values;
- vocational skills development, including job readiness preparation and portfolio development;
- increase education level;
- completion of reentry curriculum components;
- completion and approval of comprehensive pre-release transition plan.

Criteria for Determination of Risk-Reduction and Appropriateness for Release:

- o Offender has successfully completed all prioritized criminogenic-based programming.
- o Offender has completed reentry curriculum components and has developed a transition plan that has been investigated and approved by the assigned community corrections agent (adaptation of the current Parole Planning Information Sheet, Notice of Parole Commission Consideration, and Pre-Parole Investigation Report forms).
- o Offender remains classified at medium or minimum custody and institution behavior has been acceptable.
- o Offender's risk re-assessment indicates minimal risk to the public.
- o Offender is determined appropriate for release by the Earned Release Review Commission (adaptation of Parole Commission Action form). Written notice is provided to the sentencing court as currently required under law (see revised language below).

The court places inmates who successfully complete the program on Extended Supervision within 30 days of receiving a completion notice from the ~~department~~ commission. The court shall modify the inmate's bifurcated sentence by reducing the confinement part of the sentence and lengthening the extended supervision, resulting in no change in the total sentence.

General Overview of Process:

- Sentencing court determines eligibility;
- Following intake to prison, validated risk, needs and responsivity assessment is completed;
- Based on the assessment, prioritization of treatment/education needs are determined;
- Offender completes prioritized treatment/education programming;
- Risk re-assessment is completed;
- Program completion, assessment and other salient documents are collected and provided to the Earned Release Review Commission.
- The commission reviews documentation and may conduct an in-person interview with the offender;
- The commission makes a determination of appropriateness for release –
 - if yes, notice provided to sentencing court to modify the sentence to reduce confinement time and increase the term of extended supervision accordingly. Concurrently, the commission provides notice to the victim;
 - if no, offender may be required to complete additional programming. The commission may re-review the case.

Example Statutory Language Changes:

Note: Given the complexity of this provision of the law, actual statutory language changes would need to be performed by the Legislative Reference Bureau.

302.05 Wisconsin ~~substance-abuse~~ earned release program.

(1) The department of corrections ~~and the department of health and family services~~ may designate any adult correctional facility for the purposes of involving an inmate in the earned release program. ~~a section of a mental health institute as a correctional treatment facility for the treatment of substance abuse of inmates transferred from Wisconsin state prisons.~~ This section shall be administered by the department of corrections and shall be known as the Wisconsin earned release ~~substance abuse~~ program. ~~The department of corrections and the department of health and family services shall ensure that the residents at the institution and the residents in the substance abuse program:~~

(a) ~~Have access to all those facilities which are available at the institution and are necessary for the treatment programs designed by the departments.~~

(b) ~~Are housed on separate wards.~~

(2) ~~Transfer to a correctional treatment facility for the treatment of substance abuse shall be considered a transfer under s.302.18.~~

(2)(a) In this subsection, “eligible inmate” means an inmate to whom all of the following apply:

1. The inmate is incarcerated regarding a violation other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, or 948.095.
2. If the inmate is serving a bifurcated sentence imposed under s. 973.01, the sentencing court decided under par. (e) or s. 973.01 (3g) that the inmate is eligible to participate in the earned release program described in this subsection.

leave in - no, according to new instructions take out

leave in

leave in

pull out

under this program

(b) Except as provided in par. (d), if the earned release review commission (commission) ~~department~~ determines that an eligible inmate serving a sentence other than one imposed under s. 973.01 has successfully completed the treatment program described in sub. (1), the commission ~~parole commission~~ shall parole the inmate for that sentence under s. 304.06, regardless of the time the inmate has served. If the ~~parole~~ commission grants parole under this paragraph, it shall require the parolee to participate in an intensive supervision program ~~for drug abusers~~ as a condition of parole.

(c) 1. Except as provided in par. (d), if the commission ~~department~~ determines that an eligible inmate serving the term of confinement in prison portion of a bifurcated sentence imposed under s. 973.01 has successfully completed the treatment program described in sub. (1), the commission ~~department~~ shall inform the court that sentenced the inmate.

2. Upon being informed by the commission ~~department~~ under subd. 1. that an inmate whom the court sentenced under s. 973.01 has successfully completed the treatment program described in sub. (1), the court shall modify the inmate's bifurcated sentence as follows:

a. The court shall reduce the term of confinement in prison portion of the inmate's bifurcated sentence in a manner that provides for the release of the inmate to extended supervision within 30 days of the date on which the court receives the information from the commission ~~department~~ under subd. 1.b. The court shall lengthen the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change.

(d) The department may place intensive sanctions program participants in the treatment program described in sub. (1), but pars. (b) and (c) do not apply to those participants.

(e) If an inmate is serving the term of confinement portion of bifurcated sentence imposed under s. 973.01, the sentence was imposed before July 26, 2003, and the inmate satisfies the criteria under par. (a) 1., the inmate may, with the commission's ~~department's~~ approval, petition the sentencing court to determine whether he or she is eligible or ineligible to participate in the earned release program under this subsection during the term of confinement. The inmate shall serve a copy of the petition on the district attorney who prosecuted him or her, and the district attorney may file a written response. The court shall exercise its discretion in granting or denying the inmate's petition but must do so no later than 90 days after the inmate files the petition. If the court determines under this paragraph that the inmate is eligible to participate in the earned release program, the court shall inform the inmate of the provisions of par. (c).

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33.

973.01(3g) EARNED RELEASE PROGRAM ELIGIBILITY. When imposing a bifurcated sentence under this section on a person convicted of a crime other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, or 948.095, the court shall, as part of the exercise of its sentencing discretion, decide whether the person being sentenced is eligible or ineligible to participate in the earned release program under s. 302.05 (3) during the term of confinement in prison portion of the bifurcated sentence.

*Ignore these changes
keep the same procedures
draft is for goal of this
eligibility*

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Expand Eligibility Criteria of Earned Release Program
- Tracking Code: BB0382
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Leah Wavrunek
 - Phone: 267-0370
 - Email: leah.wavrunek@wisconsin.gov
- Agency acronym: DOC
- Agency number: 410
- Priority (Low, Medium, High): High

Intent: Expand eligibility of the Earned Release Program under s. 302.05 to offenders without a substance abuse treatment need. Remove language under (1)(am) referring to Department of Health Services. Delete (1)(am)1. and 2.

Delete the word "treatment" and replace it with "rehabilitation."

1-10-09 t/c to Leah: separate programs for sub. abuse or retool this whole section to only cover ERPs?
- this section should = ERPs. Repeal (1)(am) + renumber (1)(c) => (1m). Admin by corrections.
⊗ Because of x-refs, makes more sense to amend (1)(am) + repeal (1)(c)

DOA:.....Steinmetz, BB0382 - Earned Release Program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1-10-09

Don't Gen

1 AN ACT ...; relating to: the budget (1)

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC^v and DHS^v provide substance abuse treatment programs for prison inmates within certain designated correctional or mental health facilities. If DOC determines that an inmate has successfully completed a substance abuse treatment program, the inmate is released early to parole or extended supervision. Inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation.

by DHS

This bill authorizes DOC to provide rehabilitative programs that do not necessarily include substance abuse treatment within a correctional facility for inmates who may be eligible for early release. The bill eliminates ~~DHS~~ administration of substance abuse programs and allows an inmate to qualify for early release if DOC determines that the inmate successfully completed a rehabilitation program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 302.05 (title) of the statutes is amended to read:

2 302.05 (title) ~~Wisconsin substance abuse earned release program.~~

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116.

3 SECTION 2. 302.05 (1) (am) (intro.) of the statutes is renumbered 302.05 (1) and
4 amended to read:

5 302.05 (1) (intro.) The department of corrections and the department of health
6 services may designate a section of a mental health institute as a correctional
7 treatment facility for the treatment of substance abuse of inmates transferred from
8 Wisconsin state prisons. This section shall be administered by the department of
9 corrections and shall be known as the Wisconsin substance abuse program. The
10 department of corrections and the department of health services shall ensure that
11 the residents at the institution and the residents in the substance abuse program:
12 shall, at any correctional facility the department determines is appropriate, provide
13 a rehabilitation program for inmates for the purposes of the earned release program
14 described in sub. (3).

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116.

15 SECTION 3. 302.05 (1) (am) 1. of the statutes is repealed.

16 SECTION 4. 302.05 (1) (am) 2. of the statutes is repealed.

17 SECTION 5. 302.05 (1) (c) of the statutes is repealed.

18 SECTION 6. 302.05 (2) of the statutes is amended to read:

19 302.05 (2) Transfer to a correctional treatment facility for the treatment of
20 substance abuse participation in a program described in sub. (1) shall be considered
21 a transfer under s. 302.18.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116.

22 SECTION 7. 302.05 (3) (b) of the statutes is amended to read:

23 302.05 (3) (b) Except as provided in par. (d), if the department determines that
24 an eligible inmate serving a sentence other than one imposed under s. 973.01 has

1 successfully completed a ~~treatment~~ rehabilitation program described in sub. (1), the
2 parole commission shall parole the inmate for that sentence under s. 304.06,
3 regardless of the time the inmate has served. If the parole commission grants parole
4 under this paragraph, it shall require the parolee to participate in an intensive
5 supervision program ~~for drug abusers~~ appropriate to the parolee's rehabilitation
6 needs as a condition of parole.

7 **History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116.

8 **SECTION 8.** 302.05 (3) (c) 1. of the statutes is amended to read:

9 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines
10 that an eligible inmate serving the term of confinement in prison portion of a
11 bifurcated sentence imposed under s. 973.01 has successfully completed a ~~treatment~~
12 rehabilitation program described in sub. (1), the department shall inform the court
13 that sentenced the inmate.

14 **History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116.

15 **SECTION 9.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

16 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.
17 1. that an inmate whom the court sentenced under s. 973.01 has successfully
18 completed a ~~treatment~~ rehabilitation program described in sub. (1), the court shall
19 modify the inmate's bifurcated sentence as follows:

20 **History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116.

21 **SECTION 10.** 302.05 (3) (d) of the statutes is amended to read:

22 302.05 (3) (d) The department may place intensive sanctions program
23 participants in a ~~treatment~~ rehabilitation program described in sub. (1), but pars. (b)
24 and (c) do not apply to those participants.

25 **History:** 1989 a. 31; 1995 a. 27 s. 9126 (19); 2003 a. 33; 2005 a. 25, 277; 2007 a. 20 ss. 3168, 9121 (6) (a); 2007 a. 116.

(END)

**EXPAND ELIGIBILITY FOR THE CHALLENGE INCARCERATION PROGRAM,
RENAME PAROLE COMMISSION TO THE EARNED RELEASE REVIEW COMMISSION
and EXPAND THE AUTHORITY OF THE COMMISSION**

DRAFT CONCEPT PAPER

Concept: Provide sentencing option for the courts (prospective) by expanding the eligibility criteria for involvement in the Challenge Incarceration Program to include non-assaultive and non-violent offenders who do not have an AODA treatment need¹. Create a means to identify offenders currently determined by the court as eligible for CIP (retroactive) and involve these offenders in prioritized risk-reduction treatment that may involve less intensive AODA education along with other treatment interventions that are directly related to the offender's risk to commit a new crime. Create a releasing authority mechanism that allows for a structured risk assessment and review process that is predicated on a determination that the person does not pose an unreasonable risk to the public.

Program Eligibility Criteria:

- Person determined by the sentencing court to be eligible to participate in CIP (see proposed changes in eligibility criteria)
- Person convicted of non-violent crimes (instant offense and historical)

Program Suitability Criteria:

- Person assessed, using evidence-based assessment instrument(s), who has: a) an alcohol or drug treatment need that requires an intensive level of treatment; b) an alcohol or drug treatment need that does not require an intensive level of treatment; rather AODA education and/or outpatient services, and whose alcohol or drug use is not the key factor to his/her criminal behavior; or c) other treatment needs that are directly related to his/her criminal behavior (Criminogenic Needs Principle).
- Person is assessed with a validated risk instrument to determine the level of risk they pose to public safety.
- Person is assessed, using evidence-based assessment instrument(s), to ascertain their level of motivation to fully engage in change and involve themselves in determined treatment programming (Responsivity Principle).
- Person classified by the BOCM risk classification process as appropriate for Medium, Minimum, or Minimum-Community custody.

Definitions of Evidence-based Principles

Criminogenic Needs Principle: Offenders have a variety of needs, some of which are directly linked to criminal behavior. These criminogenic needs are dynamic risk factors that, when addressed or changed, affect the offender's risk for recidivism. Examples of criminogenic needs are: criminal personality; antisocial attitudes, values, and beliefs; low self control; criminal peers; substance abuse; and dysfunctional family. Based on an assessment of the offender, these criminogenic needs can be prioritized so that services

¹ See Analysis of Property, Drug Trafficking, Drug/Alcohol and Other Non-Violent Incarcerated Offenders – Analysis of First Time Offenders - and Summary Analysis of Non-Violent Offenders Who Have Minimal-to-No AODA Treatment Need

are focused on the greatest criminogenic needs. (Andrews & Bonta, 1998; Lipton, et al, 2000; Elliott, 2001; Harland, 1996)

Responsivity Principle: Responsivity requires taking into account individual characteristics when matching offenders to services. These characteristics include, but are not limited to: culture, gender, motivational stages, developmental stages, and learning styles. These factors influence an offender's readiness and responsiveness to engage in treatment. (Guerra, 1995; Miller & Rollnick, 1991; Gordon, 1970; Williams, et al, 1995)

Risk-Reduction Program Focus:

The primary focus of the program will be to provide evidence-based treatment and expand educational and vocational services that address primary criminogenic risk factors, as determined by validated risk and needs assessment instruments. Consistent with the "What Works" literature in correctional programming, the program may address, based on assessed individual needs:

- antisocial attitudes, values and beliefs (criminal thinking);
- replacement of pro-criminal associations with pro-social natural and system support networks;
- poor social and problem-solving skills;
- intensive AODA treatment or AODA education, if indicated, or other treatment needs that are directly related to his/her criminal behavior;
- parenting skills and family values;
- vocational skills development, including job readiness preparation and portfolio development;
- increase education level;
- completion of reentry curriculum components;
- completion and approval of a comprehensive pre-release transition plan.

Criteria for Determination of Risk Reduction and Appropriateness for Release:

- o Offender has successfully completed all prioritized criminogenic-based programming.
- o Offender has completed reentry curriculum components and has developed a transition plan that has been investigated and approved by the assigned community corrections agent (adaptation of the current Parole Planning Information Sheet, Notice of Parole Commission Consideration, and Pre-Parole Investigation Report forms).
- o Offender remains classified at medium or minimum custody and institution behavior has been acceptable.
- o Offender's risk re-assessment indicates minimal risk to the public.
- o Person is determined appropriate for release by the Earned Release Review Commission (adaptation of Parole Commission Action form). Written notice is provided to the sentencing court as currently required under law (see revised language below).

Upon being informed by the commission ~~department~~ under par. (a) that an inmate whom the court sentenced under s. 973.01 has successfully completed the challenge incarceration program, the court shall modify the inmate's bifurcated sentence as follows:

1. The court shall reduce the term of confinement in prison portion of the inmate's bifurcated sentence in a manner that provides for the release of the inmate to extended supervision within 30 days of the date on which the court receives the information from the commission ~~department~~ under par. (a).

2. The court shall lengthen the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change.

Concurrently, the commission provides notice to the victim.

General Overview of Process

- Sentencing court determines eligibility;
- Following intake to prison, validated risk, needs and responsivity assessment is completed;
- Based on the assessment, prioritization of treatment/education needs are determined;
- Offender completes prioritized treatment/education programming;
- Risk re-assessment is completed;
- Program completion, assessment and other salient documents are collected and provided to the Earned Release Review Commission.
- The commission reviews documentation and may conduct an in-person interview with the offender;
- The commission makes a determination of appropriateness for release –
 - if yes, notice provided to sentencing court to modify the sentence to reduce confinement time and increase the term of extended supervision accordingly;
 - if no, offender may be required to complete additional programming. The commission may re-review the case.

Example Statutory Language Changes:

Note: Given the complexity of this provision of the law, actual statutory language changes would need to be performed by the Legislative Reference Bureau.

302.045 Challenge incarceration program.

(1) PROGRAM. The department shall provide a challenge incarceration program for inmates selected to participate under sub. (2). The program shall provide participants with manual labor, ~~personal development counseling, substance abuse treatment and education,~~ military drill and ceremony, ~~counseling,~~ and strenuous physical exercise, for participants who have not attained the age of 30 as of the date on which they begin participating in the program, or age appropriate strenuous physical exercise, for all other participants, in preparation for release on parole or extended supervision. The program shall, provide, based on a comprehensive assessment of the participant's needs, intensive AODA treatment, AODA education, personal development counseling, education, employment readiness training, and/or other treatment interventions that are directly related to his/her criminal behavior. The department shall design the program to include not less than 50 participants at a time and so that a participant may complete the program in not more than 180 days. The department may restrict participant privileges as necessary to maintain discipline.

(2) PROGRAM ELIGIBILITY. Except as provided in sub. (4), the department may place any inmate in the challenge incarceration program if the inmate meets all of the following criteria:

- (a) The inmate volunteers to participate in the program.
- (b) The inmate has not attained the age of 40 as of the date the inmate will begin participating in the program.
- (c) The inmate is incarcerated regarding a violation other than a crime specified in ch. 940 or s. 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, or 948.095.

(cm) If the inmate is serving a bifurcated sentence imposed under s. 973.01, the sentencing court decided under s. 973.01 (3m) that the inmate is eligible for the challenge incarceration program.

(d) The department determines, ~~during assessment and evaluation, that the inmate has a substance abuse problem~~ using evidence-based assessment instrument(s), that the inmate:

1. has an alcohol or drug treatment need that requires an intensive level of treatment; or
2. has an alcohol or drug treatment need that does not require an intensive level of treatment, rather education and/or outpatient services, and whose alcohol or drug use is not the key factor to his/her criminal behavior; and/or
3. has other treatment needs that are directly related to his/her criminal behavior.

(e) The department determines that the inmate has no psychological, physical or medical limitations that would preclude participation in the program.

(3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the earned release review commission (commission) ~~department~~ determines that an inmate serving a sentence other than one imposed under s. 973.01 has successfully completed the challenge incarceration program, the ~~parole~~ commission shall parole the inmate for that sentence under s. 304.06, regardless of the time the inmate has served. When the ~~parole~~ commission grants parole under this subsection, it must require the parolee to participate in an intensive supervision program ~~for drug abusers~~ as a condition of parole.

(3m) RELEASE TO EXTENDED SUPERVISION. (a) Except as provided in sub. (4), if the commission ~~department~~ determines that an inmate serving the term of confinement in prison portion of a bifurcated sentence imposed under s. 973.01 has successfully completed the challenge incarceration program, the commission ~~department~~ shall inform the court that sentenced the inmate.

(b) Upon being informed by the commission ~~department~~ under par. (a) that an inmate whom the court sentenced under s. 973.01 has successfully completed the challenge incarceration program, the court shall modify the inmate's bifurcated sentence as follows:

1. The court shall reduce the term of confinement in prison portion of the inmate's bifurcated sentence in a manner that provides for the release of the inmate to extended supervision within 30 days of the date on which the court receives the information from the department under par. (a).
2. The court shall lengthen the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change.

(c) The court may not increase the total length of the bifurcated sentence when modifying a bifurcated sentence under par. (b).

(4) INTENSIVE SANCTIONS PROGRAM PARTICIPANTS. The department may place any intensive sanctions program participant in the challenge incarceration program. The participant is not subject to subs. (2), (3) and (3m).

History: 1989 a. 122; 1991 a. 39; 1993 a. 218, 227, 491; 1995 a. 456; 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277; 2007 a. 116.

While an offender must meet the eligibility requirements of sub. (2) to participate in the challenge incarceration program, the trial court must, pursuant to s. 973.01 (3m), also determine if the offender is eligible for the program, in the exercise of its sentencing discretion. *State v. Steele*, 2001 WI App 160, 246 Wis. 2d 744, 632 N.W.2d 112, 00-2864.

Example Language Changes of the Governor's Budget Provision for the Earned Release Review Commission:

RENAME PAROLE COMMISSION THE EARNED RELEASE REVIEW COMMISSION AND EXPAND AUTHORITY OF COMMISSION TO MODIFY BIFURCATED SENTENCES

Governor: Rename the Parole Commission the Earned Release Review Commission. Provide that the Commission may release to extended supervision a person sentenced to a bifurcated sentence for a Class F (a maximum sentence of 7.5 years in prison and 5 years extended supervision) to a Class I (a maximum sentence of 18 months in prison and 2 years extended supervision) felony after the person has served at least 75% of the prison confinement portion of his or her sentence. ~~Also, provide that the Commission may terminate the person's extended supervision for a Class F to Class I felony after the person has completed 75% of his or her extended supervision.~~ Also, provide that the Commission may release to extended supervision a person determined by the sentencing court as eligible for the earned release program and challenge incarceration program, successfully completes the program, and who is determined by the Commission to pose reduced risk to the safety of the community. Under the bill, statutory provisions related to extended supervision for Class A to Class E felonies would remain the same.

Provide that the Commission may consider any of the following as a ground for petition for sentence reduction: (a) the inmate's conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs since sentencing; ~~(b) a change in law or procedure effective after the inmate was sentenced that would have resulted in a shorter term of confinement in prison, if the change had been applicable when the inmate was sentenced;~~ (b) the inmate is subject to confinement in another state or the inmate is in the United States illegally and may be deported; or (c) sentence adjustment is otherwise in the interests of justice.

For an inmate in prison, provide that the Commission may adjust a person's bifurcated sentence for a Class F to Class I felony by reducing the confinement term by the amount of time remaining in prison, less up to 30 days, and providing a corresponding increase in the term of extended supervision.

~~If a sentence adjustment is based on a change in law or procedure, and the total sentence length of the adjusted sentence is greater than the maximum sentence length that the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the Commission may reduce the length of the term of extended supervision so that the total sentence length does not exceed the updated maximum sentence length.~~

~~If a sentence adjustment is based on a change in law or procedure, and the adjusted term of extended supervision is greater than the maximum term of extended supervision that the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the Commission may reduce the length of the term of~~

~~extended supervision so that the term does not exceed the updated maximum term for extended supervision.~~

~~Provide that an inmate sentenced to a bifurcated sentence for a Class F to Class I felony may only submit one petition to the Commission for sentence adjustment for each bifurcated sentence.~~

~~Under current law, an inmate serving a sentence for a crime other than a Class B felony, may petition the sentencing court to adjust the sentence if: (a) the inmate has served at least 85% of the term of confinement for a Class C to E felony; or (b) the inmate has served at least 75% of the term of confinement for a Class F to I felony. The court may deny the petition or may hold it for further consideration. If the court holds the petition for further consideration, the court must notify the district attorney of the inmate's petition. If the district attorney objects to the adjustment of the sentence within 45 days of receiving the court's notification, the court must deny the petition.~~

Under the bill, sentence modification decisions would be made by the Earned Release Review Commission. Provide that the court places inmates who successfully complete the earned release program or challenge incarceration program on Extended Supervision within 30 days of receiving a completion notice from the ~~department~~ commission. The court shall modify the inmate's bifurcated sentence by reducing the confinement part of the sentence and lengthening the extended supervision, resulting in no change in the total sentence.

Under the bill, the Commission would also assume the current duties of the Parole Commission related to release under the state's former indeterminate sentencing structure.

[Bill Sections: 24, 28, 37, 130, 321, 322, 615, 3012, 3100 thru 3102, 3106, 3107, 3167, 3169 thru 3176, 3181 thru 3204, 3862, 3877, 3878, 3888 thru 3890, 3907, and 3908]

DOA:.....Steinmetz, BB0382 - Earned Release Program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1-19
D-note

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC and DHS provide substance abuse treatment programs for prison inmates within certain designated correctional or mental health facilities. If DOC determines that an inmate has successfully completed a substance abuse treatment program, the inmate is released early to parole or extended supervision. Inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation. ~~not~~

As is the case under DOC's Challenge Incarceration Program (described below), inmates

~~not~~ This bill authorizes DOC to provide rehabilitative programs that do not necessarily include substance abuse treatment within a correctional facility for inmates who may be eligible for early release. The bill eliminates administration by DHS of substance abuse programs and allows an inmate to qualify for early release if DOC determines that the inmate successfully completed a rehabilitation program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert analysis 1 + insert analysis 2

Insert 2.1

1 SECTION 1. 302.05 (title) of the statutes is amended to read:

2 302.05 (title) **Wisconsin substance abuse earned release program.**

3 SECTION 2. 302.05 (1) (am) (intro.) of the statutes is renumbered 302.05 (1) and
4 amended to read:

5 302.05 (1) ~~The department of corrections and the department of health services~~
6 ~~may designate a section of a mental health institute as a correctional treatment~~
7 ~~facility for the treatment of substance abuse of inmates transferred from Wisconsin~~
8 ~~state prisons. This section shall be administered by the department of corrections~~
9 ~~and shall be known as the Wisconsin substance abuse program. The department of~~
10 ~~corrections and the department of health services shall ensure that the residents at~~
11 ~~the institution and the residents in the substance abuse program: shall, at any~~
12 ~~correctional facility the department determines is appropriate, provide a~~
13 ~~rehabilitation program for inmates for the purposes of the earned release program~~
14 ~~described in sub. (3).~~

15 SECTION 3. 302.05 (1) (am) 1. of the statutes is repealed.

16 SECTION 4. 302.05 (1) (am) 2. of the statutes is repealed.

17 SECTION 5. 302.05 (1) (c) of the statutes is repealed.

18 SECTION 6. 302.05 (2) of the statutes is amended to read:

19 302.05 (2) ~~Transfer to a correctional treatment facility for the treatment of~~
20 ~~substance abuse participation in a program described in sub. (1) shall be considered~~
21 ~~a transfer under s. 302.18.~~

22 SECTION 7. 302.05 (3) (b) of the statutes is amended to read:

23 302.05 (3) (b) Except as provided in par. (d), if the department determines that
24 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
25 successfully completed a ~~treatment~~ rehabilitation program described in sub. (1), the

1 parole commission shall parole the inmate for that sentence under s. 304.06,
2 regardless of the time the inmate has served. If the parole commission grants parole
3 under this paragraph, it shall require the parolee to participate in an intensive
4 supervision program ~~for drug abusers~~ appropriate to the parolee's rehabilitation
5 needs as a condition of parole.

6 **SECTION 8.** 302.05 (3) (c) 1. of the statutes is amended to read:

7 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines
8 that an eligible inmate serving the term of confinement in prison portion of a
9 bifurcated sentence imposed under s. 973.01 has successfully completed a ~~treatment~~
10 rehabilitation program described in sub. (1), the department shall inform the court
11 that sentenced the inmate.

12 **SECTION 9.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

13 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.
14 1. that an inmate whom the court sentenced under s. 973.01 has successfully
15 completed a ~~treatment~~ rehabilitation program described in sub. (1), the court shall
16 modify the inmate's bifurcated sentence as follows:

17 **SECTION 10.** 302.05 (3) (d) of the statutes is amended to read:

18 302.05 (3) (d) The department may place intensive sanctions program
19 participants in a ~~treatment~~ rehabilitation program described in sub. (1), but pars. (b)
20 and (c) do not apply to those participants.

21 (END)

D-Note

DOA:.....Johnston - BB0421, Challenge incarceration program; earned release for graduates of Drug Abuse Correctional Center program

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC and DHFS operate the Drug Abuse Correctional Center program in Winnebago, which provides substance abuse treatment for prison inmates transferred there. This bill establishes an early release program for certain graduates of this program. Under the bill, if DOC determines that a person has successfully completed the Drug Abuse Correctional Center program, the person is released to parole or extended supervision. As is the case under DOC's boot camp program (described below), inmates convicted of violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation.

opt to participate in the program. must be no more than 40

Insert analysis

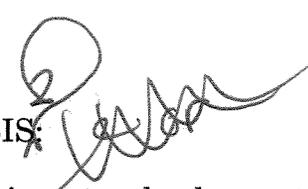
DOC operates the boot camp for adults who are convicted before turning 30 years old and who have a substance abuse problem. A participant is required to perform strenuous physical exercise and manual labor and participate in counseling, substance abuse treatment, and military drill and ceremony programs. A person who successfully completes the boot camp program is released to parole or extended supervision, regardless of how much of his or her sentence the person has served.

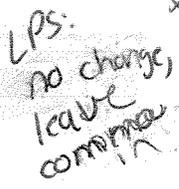
the Challenge Incarceration Program

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1418/P1ins
PJH:kjf:rs

1

INSERT ANALYSIS: 

  This bill allows an inmate who does not have a substance abuse problem, but is otherwise eligible, to participate in the Challenge Incarceration Program. The bill requires DOC to assess each inmate who volunteers to participate in the program to determine if he or she has a substance abuse problem that requires an intensive level of treatment, a substance abuse problem that does not require intensive treatment and is not directly related to the inmate's criminal behavior, or another treatment need that is not related to substance abuse and that is directly related to the inmate's criminal behavior. The bill requires DOC to provide appropriate treatment and education, based on its assessment of a participant's treatment needs, to each participant in the Challenge Incarceration Program.

2

3

INSERT 2.1: 

4

SECTION 1. 302.045 (1) of the statutes is amended to read:

5

302.045 (1) PROGRAM. The department shall provide a challenge incarceration

6

program for inmates selected to participate under sub. (2). The program shall

7

provide participants with manual labor, ~~personal development counseling,~~

8

~~substance abuse treatment and education,~~ military drill and ceremony, ~~counseling,~~

9

and strenuous physical exercise, for participants who have not attained the age of

10

30 as of the date on which they begin participating in the program, or

11

age-appropriate strenuous physical exercise, for all other participants, in

12

preparation for release on parole or extended supervision. The program shall

13

provide, according to each participant's needs as assessed under sub. (2) (d),

14

substance abuse treatment and education, including intensive intervention when

15

indicated, personal development counseling, education, employment readiness

16

training, and other treatment options that are directly related to the participant's

17

criminal behavior. The department shall design the program to include not less than

18

50 participants at a time and so that a participant may complete the program in not

1 more than 180 days. The department may restrict participant privileges as
2 necessary to maintain discipline.

3 **History:** 1989 a. 122; 1991 a. 39; 1993 a. 218, 227, 491; 1995 a. 456; 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277; 2007 a. 116.

4 **SECTION 2.** 302.045 (2) (d) of the statutes is repealed and recreated to read:

5 302.045 (2) (d) The department determines, using evidence-based assessment
6 instruments, that:

7 1. The inmate has a substance abuse treatment need that requires an intensive
8 level of treatment.

9 2. The inmate has a substance abuse treatment need that does not require an
10 intensive level of treatment but does require education or outpatient services, and
11 the inmate's substance use is not a key factor in his or her criminal behavior.

12 3. The inmate has one or more treatment needs not related to substance use
13 that is directly related to his or her criminal behavior.

14 **SECTION 3.** 302.045 (3) of the statutes is amended to read:

15 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
16 determines that an inmate serving a sentence other than one imposed under s.
17 973.01 has successfully completed the challenge incarceration program, the parole
18 commission shall parole the inmate for that sentence under s. 304.06, regardless of
19 the time the inmate has served. When the parole commission grants parole under
20 this subsection, it must require the parolee to participate in an intensive supervision
21 program ~~for drug abusers~~ appropriate to the parolee's rehabilitation needs as a
22 condition of parole.

23 **History:** 1989 a. 122; 1991 a. 39; 1993 a. 218, 227, 491; 1995 a. 456; 1997 a. 283; 2001 a. 109; 2003 a. 33; 2005 a. 277; 2007 a. 116.

23

24

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1418P2
T69/3dn
??dn
PJH:kjf

Date

Jana,

X
Please review this draft to make sure it accomplishes your intent. I have used the language provided by DOC to expand the Challenge Incarceration Program to include people who does not have a substance abuse problem, but I am not sure what "evidence-based assessment instruments" are. Does that term need to be defined?

As we discussed, this draft does not change how inmates who complete the program are released to parole or extended supervision except to remove the requirement that parolees participate in a "drug treatment" program. Please let me know if this is not your intent.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1418/P2dn
PJH:kjf:md

January 15, 2009

Jana,

Please review this draft to make sure it accomplishes your intent. I have used the language provided by DOC to expand the Challenge Incarceration Program to include people who do not have a substance abuse problem, but I am not sure what "evidence-based assessment instruments" are. Does that term need to be defined?

As we discussed, this draft does not change how inmates who complete the program are released to parole or extended supervision except to remove the requirement that parolees participate in a "drug treatment" program. Please let me know if this is not your intent.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1418/P2

PJH:kjf/md

DOA:.....Steinmetz, BB0382 - Earned Release Program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1-20
Dink

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC and DHS provide substance abuse treatment programs for prison inmates within certain designated correctional or mental health facilities. If DOC determines that an inmate has successfully completed a substance abuse treatment program, the inmate is released early to parole or extended supervision. As is the case under DOC's Challenge Incarceration Program (described below), inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation. This bill authorizes DOC to provide rehabilitative programs that do not necessarily include substance abuse treatment within a correctional facility for inmates who may be eligible for early release. The bill eliminates administration by DHS of substance abuse programs and allows an inmate to qualify for early release if DOC determines that the inmate successfully completed a rehabilitation program.

DOC operates the Challenge Incarceration Program for adults who opt to participate in the program. Participants must be no more than 40 years old and have a substance abuse problem. A participant is required to perform strenuous physical exercise and manual labor and participate in counseling, substance abuse

treatment, and military drill and ceremony programs. A person who successfully completes the program is released to parole or extended supervision, regardless of how much of his or her sentence the person has served.

This bill allows an inmate who does not have a substance abuse problem, but is otherwise eligible, to participate in the Challenge Incarceration Program. The bill requires DOC to assess each inmate who volunteers to participate in the program to determine if he or she has a substance abuse problem that requires an intensive level of treatment, a substance abuse problem that does not require intensive treatment and is not directly related to the inmate's criminal behavior, or another treatment need that is not related to substance abuse and that is directly related to the inmate's criminal behavior. The bill requires DOC to provide appropriate treatment and education, based on its assessment of a participant's treatment needs, to each participant in the Challenge Incarceration Program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.045 (1) of the statutes is amended to read:

2 302.045 (1) PROGRAM. The department shall provide a challenge incarceration
3 program for inmates selected to participate under sub. (2). The program shall
4 provide participants with manual labor, ~~personal development counseling,~~
5 ~~substance abuse treatment and education,~~ military drill and ceremony, ~~counseling,~~
6 and strenuous physical exercise, for participants who have not attained the age of
7 30 as of the date on which they begin participating in the program, or
8 age-appropriate strenuous physical exercise, for all other participants, in
9 preparation for release on parole or extended supervision. The program shall
10 provide, according to each participant's needs as assessed under sub. (2) (d),
11 substance abuse treatment and education, including intensive intervention when
12 indicated, personal development counseling, education, employment readiness
13 training, and other treatment options that are directly related to the participant's
14 criminal behavior. The department shall design the program to include not less than
15 50 participants at a time and so that a participant may complete the program in not

1 more than 180 days. The department may restrict participant privileges as
2 necessary to maintain discipline.

3 **SECTION 2.** 302.045 (2) (d) of the statutes is repealed and recreated to read:

4 302.045 (2) (d) The department determines, using evidence-based assessment
5 instruments, that: *one of the following applies!*

6 1. The inmate has a substance abuse treatment need that requires an intensive
7 level of treatment.

8 2. The inmate has a substance abuse treatment need that does not require an
9 intensive level of treatment but does require education or outpatient services, and
10 the inmate's substance use is not a key factor in his or her criminal behavior.

11 3. The inmate has one or more treatment needs not related to substance use
12 that is directly related to his or her criminal behavior.

13 **SECTION 3.** 302.045 (3) of the statutes is amended to read:

14 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
15 determines that an inmate serving a sentence other than one imposed under s.
16 973.01 has successfully completed the challenge incarceration program, the parole
17 commission shall parole the inmate for that sentence under s. 304.06, regardless of
18 the time the inmate has served. When the parole commission grants parole under
19 this subsection, it must require the parolee to participate in an intensive supervision
20 program ~~for drug abusers~~ appropriate to the parolee's rehabilitation needs as a
21 condition of parole.

22 **SECTION 4.** 302.05 (title) of the statutes is amended to read:

23 **302.05 (title) Wisconsin substance abuse earned release program.**

24 **SECTION 5.** 302.05 (1) (am) (intro.) of the statutes is renumbered 302.05 (1) and
25 amended to read:

1 302.05 (1) ~~The department of corrections and the department of health services~~
2 ~~may designate a section of a mental health institute as a correctional treatment~~
3 ~~facility for the treatment of substance abuse of inmates transferred from Wisconsin~~
4 ~~state prisons. This section shall be administered by the department of corrections~~
5 ~~and shall be known as the Wisconsin substance abuse program. The department of~~
6 ~~corrections and the department of health services shall ensure that the residents at~~
7 ~~the institution and the residents in the substance abuse program: shall, at any~~
8 correctional facility the department determines is appropriate, provide a
9 rehabilitation program for inmates for the purposes of the earned release program
10 described in sub. (3).

11 **SECTION 6.** 302.05 (1) (am) 1. of the statutes is repealed.

12 **SECTION 7.** 302.05 (1) (am) 2. of the statutes is repealed.

13 **SECTION 8.** 302.05 (1) (c) of the statutes is repealed.

14 **SECTION 9.** 302.05 (2) of the statutes is amended to read:

15 302.05 (2) Transfer to a correctional treatment facility for the treatment of
16 substance abuse participation in a program described in sub. (1) shall be considered
17 a transfer under s. 302.18.

18 **SECTION 10.** 302.05 (3) (b) of the statutes is amended to read:

19 302.05 (3) (b) Except as provided in par. (d), if the department determines that
20 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
21 successfully completed a treatment rehabilitation program described in sub. (1), the
22 parole commission shall parole the inmate for that sentence under s. 304.06,
23 regardless of the time the inmate has served. If the parole commission grants parole
24 under this paragraph, it shall require the parolee to participate in an intensive

1 supervision program for ~~drug abusers~~ appropriate to the parolee's rehabilitation
2 needs as a condition of parole.

3 **SECTION 11.** 302.05 (3) (c) 1. of the statutes is amended to read:

4 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines
5 that an eligible inmate serving the term of confinement in prison portion of a
6 bifurcated sentence imposed under s. 973.01 has successfully completed a ~~treatment~~
7 rehabilitation program described in sub. (1), the department shall inform the court
8 that sentenced the inmate.

9 **SECTION 12.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

10 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.
11 1. that an inmate whom the court sentenced under s. 973.01 has successfully
12 completed a ~~treatment~~ rehabilitation program described in sub. (1), the court shall
13 modify the inmate's bifurcated sentence as follows:

14 **SECTION 13.** 302.05 (3) (d) of the statutes is amended to read:

15 302.05 (3) (d) The department may place intensive sanctions program
16 participants in a ~~treatment~~ rehabilitation program described in sub. (1), but pars. (b)
17 and (c) do not apply to those participants.

18 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1418/P2dn

PJH:kjf:md

Date

Jana,

X
K
I am submitting a second version of this draft to clarify that, under s. 302.045 (2) (d),
the department of corrections must find that an inmate has one of the following
conditions in order for an inmate to qualify for the challenge incarceration program:
a substance abuse problem requiring intensive treatment, a substance abuse problem
that is not a key factor in his or her criminal behavior, or another treatment need not
related to substance abuse.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1418/P3dn
PJH:kjf:md

January 20, 2009

Jana,

I am submitting a second version of this draft to clarify that, under s. 302.045 (2) (d), the Department of Corrections must find that an inmate has one of the following conditions in order for an inmate to qualify for the Challenge Incarceration Program: a substance abuse problem requiring intensive treatment, a substance abuse problem that is not a key factor in his or her criminal behavior, or another treatment need not related to substance abuse.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

Hurley, Peggy

From: Silver, Karina B - DOA [karina.silver@wisconsin.gov]
Sent: Wednesday, January 21, 2009 5:04 PM
To: Hurley, Peggy
Subject: RE: 1418/P3

If that's the only way to get it fixed... seems kind of silly to it just for 1 word though. But we cannot have this limitation in the language...

Karina Silver
(608) 266-2213

From: Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]
Sent: Wednesday, January 21, 2009 5:02 PM
To: Silver, Karina B - DOA
Subject: RE: 1418/P3

Hi Karina,

I see it now. I struck the word "treatment" as it related to the "treatment of substance abuse" but failed to strike the word in the phrase That was an oversight; would you like a /P4?

From: Silver, Karina B - DOA [mailto:karina.silver@wisconsin.gov]
Sent: Wednesday, January 21, 2009 4:54 PM
To: Hurley, Peggy
Subject: 1418/P3

Hi Peggy,

Just a very minor thing that I noticed while looking over the drafts – 1481/P3, page 4, line 15 – the word “treatment” should be taken out, unless there was some specific reason why you left it in?

Feel free to call or email me with questions.

Thanks,

Karina B. Silver
Executive Policy and Budget Analyst
State Budget Office
(608) 266-2213

py

DOA:.....Steinmetz, BB0382 - Earned Release Program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

done for 1-21-09

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC and DHS provide substance abuse treatment programs for prison inmates within certain designated correctional or mental health facilities. If DOC determines that an inmate has successfully completed a substance abuse treatment program, the inmate is released early to parole or extended supervision. As is the case under DOC's Challenge Incarceration Program (described below), inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation. This bill authorizes DOC to provide rehabilitative programs that do not necessarily include substance abuse treatment within a correctional facility for inmates who may be eligible for early release. The bill eliminates administration by DHS of substance abuse programs and allows an inmate to qualify for early release if DOC determines that the inmate successfully completed a rehabilitation program.

DOC operates the Challenge Incarceration Program for adults who opt to participate in the program. Participants must be no more than 40 years old and have a substance abuse problem. A participant is required to perform strenuous physical exercise and manual labor and participate in counseling, substance abuse

treatment, and military drill and ceremony programs. A person who successfully completes the program is released to parole or extended supervision, regardless of how much of his or her sentence the person has served.

This bill allows an inmate who does not have a substance abuse problem, but is otherwise eligible, to participate in the Challenge Incarceration Program. The bill requires DOC to assess each inmate who volunteers to participate in the program to determine if he or she has a substance abuse problem that requires an intensive level of treatment, a substance abuse problem that does not require intensive treatment and is not directly related to the inmate's criminal behavior, or another treatment need that is not related to substance abuse and that is directly related to the inmate's criminal behavior. The bill requires DOC to provide appropriate treatment and education, based on its assessment of a participant's treatment needs, to each participant in the Challenge Incarceration Program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.045 (1) of the statutes is amended to read:

2 302.045 (1) PROGRAM. The department shall provide a challenge incarceration
3 program for inmates selected to participate under sub. (2). The program shall
4 provide participants with manual labor, ~~personal development counseling,~~
5 ~~substance abuse treatment and education,~~ military drill and ceremony, ~~counseling,~~
6 and strenuous physical exercise, for participants who have not attained the age of
7 30 as of the date on which they begin participating in the program, or
8 age-appropriate strenuous physical exercise, for all other participants, in
9 preparation for release on parole or extended supervision. The program shall
10 provide, according to each participant's needs as assessed under sub. (2) (d),
11 substance abuse treatment and education, including intensive intervention when
12 indicated, personal development counseling, education, employment readiness
13 training, and other treatment options that are directly related to the participant's
14 criminal behavior. The department shall design the program to include not less than
15 50 participants at a time and so that a participant may complete the program in not

1 more than 180 days. The department may restrict participant privileges as
2 necessary to maintain discipline.

3 **SECTION 2.** 302.045 (2) (d) of the statutes is repealed and recreated to read:

4 302.045 (2) (d) The department determines, using evidence-based assessment
5 instruments, that one of the following applies:

6 1. The inmate has a substance abuse treatment need that requires an intensive
7 level of treatment.

8 2. The inmate has a substance abuse treatment need that does not require an
9 intensive level of treatment but does require education or outpatient services, and
10 the inmate's substance use is not a key factor in his or her criminal behavior.

11 3. The inmate has one or more treatment needs not related to substance use
12 that is directly related to his or her criminal behavior.

13 **SECTION 3.** 302.045 (3) of the statutes is amended to read:

14 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
15 determines that an inmate serving a sentence other than one imposed under s.
16 973.01 has successfully completed the challenge incarceration program, the parole
17 commission shall parole the inmate for that sentence under s. 304.06, regardless of
18 the time the inmate has served. When the parole commission grants parole under
19 this subsection, it must require the parolee to participate in an intensive supervision
20 program ~~for drug abusers~~ appropriate to the parolee's rehabilitation needs as a
21 condition of parole.

22 **SECTION 4.** 302.05 (title) of the statutes is amended to read:

23 **302.05 (title) Wisconsin substance abuse earned release program.**

24 **SECTION 5.** 302.05 (1) (am) (intro.) of the statutes is renumbered 302.05 (1) and
25 amended to read:

1 302.05 (1) The department of corrections ~~and the department of health services~~
2 ~~may designate a section of a mental health institute as a correctional treatment~~
3 ~~facility for the treatment of substance abuse of inmates transferred from Wisconsin~~
4 ~~state prisons. This section shall be administered by the department of corrections~~
5 ~~and shall be known as the Wisconsin substance abuse program. The department of~~
6 ~~corrections and the department of health services shall ensure that the residents at~~
7 ~~the institution and the residents in the substance abuse program: shall, at any~~
8 ~~correctional facility the department determines is appropriate, provide a~~
9 ~~rehabilitation program for inmates for the purposes of the earned release program~~
10 ~~described in sub. (3).~~

11 **SECTION 6.** 302.05 (1) (am) 1. of the statutes is repealed.

12 **SECTION 7.** 302.05 (1) (am) 2. of the statutes is repealed.

13 **SECTION 8.** 302.05 (1) (c) of the statutes is repealed.

14 **SECTION 9.** 302.05 (2) of the statutes is amended to read:

15 302.05 (2) Transfer to a correctional ~~treatment~~ facility for the treatment of
16 substance abuse participation in a program described in sub. (1) shall be considered
17 a transfer under s. 302.18.

18 **SECTION 10.** 302.05 (3) (b) of the statutes is amended to read:

19 302.05 (3) (b) Except as provided in par. (d), if the department determines that
20 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
21 successfully completed a ~~treatment~~ rehabilitation program described in sub. (1), the
22 parole commission shall parole the inmate for that sentence under s. 304.06,
23 regardless of the time the inmate has served. If the parole commission grants parole
24 under this paragraph, it shall require the parolee to participate in an intensive

1 supervision program ~~for drug abusers~~ appropriate to the parolee's rehabilitation
2 needs as a condition of parole.

3 SECTION 11. 302.05 (3) (c) 1. of the statutes is amended to read:

4 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines
5 that an eligible inmate serving the term of confinement in prison portion of a
6 bifurcated sentence imposed under s. 973.01 has successfully completed a ~~treatment~~
7 rehabilitation program described in sub. (1), the department shall inform the court
8 that sentenced the inmate.

9 SECTION 12. 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

10 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.
11 1. that an inmate whom the court sentenced under s. 973.01 has successfully
12 completed a ~~treatment~~ rehabilitation program described in sub. (1), the court shall
13 modify the inmate's bifurcated sentence as follows:

14 SECTION 13. 302.05 (3) (d) of the statutes is amended to read:

15 302.05 (3) (d) The department may place intensive sanctions program
16 participants in a ~~treatment~~ rehabilitation program described in sub. (1), but pars. (b)
17 and (c) do not apply to those participants.

18 (END)

plan space

P5
YMW

DOA:.....Steinmetz, BB0382 - Earned Release Program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-note

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC and DHS provide substance abuse treatment programs for prison inmates within certain designated correctional or mental health facilities. If DOC determines that an inmate has successfully completed a substance abuse treatment program, the inmate is released early to parole or extended supervision. As is the case under DOC's Challenge Incarceration Program (described below), inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation. This bill authorizes DOC to provide rehabilitative programs that do not necessarily include substance abuse treatment within a correctional facility for inmates who may be eligible for early release. The bill eliminates administration by DHS of substance abuse programs and allows an inmate to qualify for early release if DOC determines that the inmate successfully completed a rehabilitation program.

DOC operates the Challenge Incarceration Program for adults who opt to participate in the program. Participants must be no more than 40 years old and have a substance abuse problem. A participant is required to perform strenuous physical exercise and manual labor and participate in counseling, substance abuse

treatment, and military drill and ceremony programs. A person who successfully completes the program is released to parole or extended supervision, regardless of how much of his or her sentence the person has served.

This bill allows an inmate who does not have a substance abuse problem, but is otherwise eligible, to participate in the Challenge Incarceration Program. The bill requires DOC to assess each inmate who volunteers to participate in the program to determine if he or she has a substance abuse problem that requires an intensive level of treatment, a substance abuse problem that does not require intensive treatment and is not directly related to the inmate's criminal behavior, or another treatment need that is not related to substance abuse and that is directly related to the inmate's criminal behavior. The bill requires DOC to provide appropriate treatment and education, based on its assessment of a participant's treatment needs, to each participant in the Challenge Incarceration Program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.045 (1) of the statutes is amended to read:

2 302.045 (1) PROGRAM. The department shall provide a challenge incarceration
3 program for inmates selected to participate under sub. (2). The program shall
4 provide participants with manual labor, ~~personal development counseling,~~
5 ~~substance abuse treatment and education,~~ military drill and ceremony, ~~counseling,~~
6 and strenuous physical exercise, for participants who have not attained the age of
7 30 as of the date on which they begin participating in the program, or
8 age-appropriate strenuous physical exercise, for all other participants, in
9 preparation for release on parole or extended supervision. The program shall
10 provide, according to each participant's needs as assessed under sub. (2) (d),
11 substance abuse treatment and education, including intensive intervention when
12 indicated, personal development counseling, education, employment readiness
13 training, and other treatment options that are directly related to the participant's
14 criminal behavior. The department shall design the program to include not less than
15 50 participants at a time and so that a participant may complete the program in not

1 more than 180 days. The department may restrict participant privileges as
2 necessary to maintain discipline.

3 **SECTION 2.** 302.045 (2) (d) of the statutes is repealed and recreated to read:

4 302.045 (2) (d) The department determines, using evidence-based assessment
5 instruments, that one of the following applies:

6 1. The inmate has a substance abuse treatment need that requires an intensive
7 level of treatment.

8 2. The inmate has a substance abuse treatment need that does not require an
9 intensive level of treatment but does require education or outpatient services, and
10 the inmate's substance use is not a key factor in his or her criminal behavior.

11 3. The inmate has one or more treatment needs not related to substance use
12 that is directly related to his or her criminal behavior.

13 **SECTION 3.** 302.045 (3) of the statutes is amended to read:

14 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
15 determines that an inmate serving a sentence other than one imposed under s.
16 973.01 has successfully completed the challenge incarceration program, the parole
17 commission shall parole the inmate for that sentence under s. 304.06, regardless of
18 the time the inmate has served. When the parole commission grants parole under
19 this subsection, it must require the parolee to participate in an intensive supervision
20 program ~~for drug abusers~~ appropriate to the parolee's rehabilitation needs as a
21 condition of parole.

22 **SECTION 4.** 302.05 (title) of the statutes is amended to read:

23 **302.05 (title) Wisconsin substance abuse earned release program.**

24 **SECTION 5.** 302.05 (1) (am) (intro.) of the statutes is renumbered 302.05 (1) and
25 amended to read:

1 302.05 (1) ~~The department of corrections and the department of health services~~
2 ~~may designate a section of a mental health institute as a correctional treatment~~
3 ~~facility for the treatment of substance abuse of inmates transferred from Wisconsin~~
4 ~~state prisons. This section shall be administered by the department of corrections~~
5 ~~and shall be known as the Wisconsin substance abuse program. The department of~~
6 ~~corrections and the department of health services shall ensure that the residents at~~
7 ~~the institution and the residents in the substance abuse program: shall, at any~~
8 correctional facility the department determines is appropriate, provide a
9 rehabilitation program for inmates for the purposes of the earned release program
10 described in sub. (3).

11 **SECTION 6.** 302.05 (1) (am) 1. of the statutes is repealed.

12 **SECTION 7.** 302.05 (1) (am) 2. of the statutes is repealed.

13 **SECTION 8.** 302.05 (1) (c) of the statutes is repealed.

14 **SECTION 9.** 302.05 (2) of the statutes is amended to read:

15 302.05 (2) Transfer to a correctional ~~treatment~~ facility for the treatment of
16 substance abuse participation in a program described in sub. (1) shall be considered
17 a transfer under s. 302.18.

18 **SECTION 10.** 302.05 (3) (b) of the statutes is amended to read:

19 302.05 (3) (b) Except as provided in par. (d), if the department determines that
20 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
21 successfully completed a ~~treatment~~ rehabilitation program described in sub. (1), the
22 parole commission shall parole the inmate for that sentence under s. 304.06,
23 regardless of the time the inmate has served. If the parole commission grants parole
24 under this paragraph, it shall require the parolee to participate in an intensive

1 supervision program ~~for drug abusers~~ appropriate to the parolee's rehabilitation
2 needs as a condition of parole.

3 **SECTION 11.** 302.05 (3) (c) 1. of the statutes is amended to read:

4 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines
5 that an eligible inmate serving the term of confinement in prison portion of a
6 bifurcated sentence imposed under s. 973.01 has successfully completed a ~~treatment~~
7 rehabilitation program described in sub. (1), the department shall inform the court
8 that sentenced the inmate.

9 **SECTION 12.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

10 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.
11 1. that an inmate whom the court sentenced under s. 973.01 has successfully
12 completed a ~~treatment~~ rehabilitation program described in sub. (1), the court shall
13 modify the inmate's bifurcated sentence as follows:

14 **SECTION 13.** 302.05 (3) (d) of the statutes is amended to read:

15 302.05 (3) (d) The department may place intensive sanctions program
16 participants in a ~~treatment~~ rehabilitation program described in sub. (1), but pars. (b)
17 and (c) do not apply to those participants.

18 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1418/P4dn
PJH:kjfrs

Date

Jana:

✓
This draft reconciles LRB-1418 and LRB-1768. Both of these drafts should continue to appear in the compiled bill.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1418/P5dn
PJH:kjf:jf

January 30, 2009

Jana:

This draft reconciles LRB-1418 and LRB-1768. Both of these drafts should continue to appear in the compiled bill.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov



DOA:.....Steinmetz, BB0382 - Earned Release Program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, DOC and DHS provide substance abuse treatment programs for prison inmates within certain designated correctional or mental health facilities. If DOC determines that an inmate has successfully completed a substance abuse treatment program, the inmate is released early to parole or extended supervision. As is the case under DOC's Challenge Incarceration Program (described below), inmates convicted of certain violent crimes or certain offenses against children are not eligible for early release under this program. Inmates who are sentenced under the "Truth in Sentencing" law are eligible only if the court authorizes their participation. This bill authorizes DOC to provide rehabilitative programs that do not necessarily include substance abuse treatment within a correctional facility for inmates who may be eligible for early release. The bill eliminates administration by DHS of substance abuse programs and allows an inmate to qualify for early release if DOC determines that the inmate successfully completed a rehabilitation program.

DOC operates the Challenge Incarceration Program for adults who opt to participate in the program. Participants must be no more than 40 years old and have a substance abuse problem. A participant is required to perform strenuous physical exercise and manual labor and participate in counseling, substance abuse

treatment, and military drill and ceremony programs. A person who successfully completes the program is released to parole or extended supervision, regardless of how much of his or her sentence the person has served.

This bill allows an inmate who does not have a substance abuse problem, but is otherwise eligible, to participate in the Challenge Incarceration Program. The bill requires DOC to assess each inmate who volunteers to participate in the program to determine if he or she has a substance abuse problem that requires an intensive level of treatment, a substance abuse problem that does not require intensive treatment and is not directly related to the inmate's criminal behavior, or another treatment need that is not related to substance abuse and that is directly related to the inmate's criminal behavior. The bill requires DOC to provide appropriate treatment and education, based on its assessment of a participant's treatment needs, to each participant in the Challenge Incarceration Program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.045 (1) of the statutes is amended to read:

2 302.045 (1) PROGRAM. The department shall provide a challenge incarceration
3 program for inmates selected to participate under sub. (2). The program shall
4 provide participants with manual labor, ~~personal development counseling,~~
5 ~~substance abuse treatment and education,~~ military drill and ceremony, ~~counseling,~~
6 and strenuous physical exercise, for participants who have not attained the age of
7 30 as of the date on which they begin participating in the program, or
8 age-appropriate strenuous physical exercise, for all other participants, in
9 preparation for release on parole or extended supervision. The program shall
10 provide, according to each participant's needs as assessed under sub. (2) (d),
11 substance abuse treatment and education, including intensive intervention when
12 indicated, personal development counseling, education, employment readiness
13 training, and other treatment options that are directly related to the participant's
14 criminal behavior. The department shall design the program to include not less than
15 50 participants at a time and so that a participant may complete the program in not

1 more than 180 days. The department may restrict participant privileges as
2 necessary to maintain discipline.

3 **SECTION 2.** 302.045 (2) (d) of the statutes is repealed and recreated to read:

4 302.045 (2) (d) The department determines, using evidence-based assessment
5 instruments, that one of the following applies:

6 1. The inmate has a substance abuse treatment need that requires an intensive
7 level of treatment.

8 2. The inmate has a substance abuse treatment need that does not require an
9 intensive level of treatment but does require education or outpatient services, and
10 the inmate's substance use is not a key factor in his or her criminal behavior.

11 3. The inmate has one or more treatment needs not related to substance use
12 that is directly related to his or her criminal behavior.

13 **SECTION 3.** 302.05 (title) of the statutes is amended to read:

14 **302.05 (title) Wisconsin substance abuse earned release program.**

15 **SECTION 4.** 302.05 (1) (am) (intro.) of the statutes is renumbered 302.05 (1) and
16 amended to read:

17 302.05 (1) The department of corrections ~~and the department of health services~~
18 ~~may designate a section of a mental health institute as a correctional treatment~~
19 ~~facility for the treatment of substance abuse of inmates transferred from Wisconsin~~
20 ~~state prisons. This section shall be administered by the department of corrections~~
21 ~~and shall be known as the Wisconsin substance abuse program. The department of~~
22 ~~corrections and the department of health services shall ensure that the residents at~~
23 ~~the institution and the residents in the substance abuse program: shall, at any~~
24 ~~correctional facility the department determines is appropriate, provide a~~

1 rehabilitation program for inmates for the purposes of the earned release program
2 described in sub. (3).

3 **SECTION 5.** 302.05 (1) (am) 1. of the statutes is repealed.

4 **SECTION 6.** 302.05 (1) (am) 2. of the statutes is repealed.

5 **SECTION 7.** 302.05 (1) (c) of the statutes is repealed.

6 **SECTION 8.** 302.05 (2) of the statutes is amended to read:

7 302.05 (2) Transfer to a correctional ~~treatment~~ facility for ~~the treatment of~~
8 ~~substance abuse~~ participation in a program described in sub. (1) shall be considered
9 a transfer under s. 302.18.

10 **SECTION 9.** 302.05 (3) (c) 1. of the statutes is amended to read:

11 302.05 (3) (c) 1. Except as provided in par. (d), if the department determines
12 that an eligible inmate serving the term of confinement in prison portion of a
13 bifurcated sentence imposed under s. 973.01 has successfully completed a ~~treatment~~
14 rehabilitation program described in sub. (1), the department shall inform the court
15 that sentenced the inmate.

16 **SECTION 10.** 302.05 (3) (c) 2. (intro.) of the statutes is amended to read:

17 302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.
18 1. that an inmate whom the court sentenced under s. 973.01 has successfully
19 completed a ~~treatment~~ rehabilitation program described in sub. (1), the court shall
20 modify the inmate's bifurcated sentence as follows:

21 **SECTION 11.** 302.05 (3) (d) of the statutes is amended to read:

22 302.05 (3) (d) The department may place intensive sanctions program
23 participants in a ~~treatment~~ rehabilitation program described in sub. (1), but pars. (b)
24 and (c) do not apply to those participants.

25 (END)